## REMARKS

Claims 1-20 are pending in the application. The Office action asserts the claims do not meet the requirements of patentability under 35 U.S.C. §103(a) as being unpatentable over Behfar et al. (WO 00/77620, "Behfar") in view of Oliveira et al (US 6,579,208, "Oliveira") in further view of Lee et al. (US 6,609,127, "Lee"). Applicants traverse this contention and request reconsideration.

In the instant Office action, it is asserted that the combination of Behfar in view of Oliveira in further view of Lee renders unpatentable the pending claims. Since none of Behfar, Oliveira and Lee teach or suggest an active network, the recited combination cannot teach a vehicle incorporating an active network structure. Therefore, the asserted combination cannot render the claims unpatentable.

To establish a prima facie case of obviousness, and hence to find claims 1-20 unpatentable under 35 U.S.C. § 103(a), three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all of the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not be based upon applicant's disclosure. MPEP at § 2142.

**The proffered combination of Behfar in view of Oliveira in further view of Lee fails to meet at least one of the criteria for establishing a prima facie case of obviousness.**

The examiner admits that Behfar and Oliveira "fail to disclose the use of active networks." The examiner notes that these references teach only the use of network structures, such as controller area networks (CAN) networks, in vehicles. However, the examiner asserts that Lee "discloses coupling of devices (within a home or business see col 2 line 20) through the use of control area networks (CAN), which also comprises of active networks such as WANs, LANs, etc....". This combination fails for at least two reasons. First, the networks, CAN, WAN, LAN or the like taught by Lee are not active networks.

Therefore, the combination of Behfar in view of Oliveira in further view of Lee does not teach a vehicle incorporating an active network. Second, even if Lee taught the use of active networks, which it does not, there is no motivation to combine the network structures taught by Lee into the vehicle structures taught by Behfar and/or Oliveira.

Here the applicants have combined known architectures, a vehicle and an active network. The applicants do not attempt to claim an active network *per se* or an active network in a home or business, even if this was taught by Lee, but it is not. Nor does the applicant attempt to claim a vehicle with any kind of network. Clear in the pending claims, the applicants claim a vehicle that includes an active network structure. The structure of a vehicle in combination with an active network is not taught or suggested in the art.

First, it is useful to understand what the applicants mean by the term "active network." Those of ordinary skill in the art know perfectly what an active network is, what an active network does and how to realize an active network. This is not an arbitrary assumption made by the attorney, but is based upon experts in the field of computing and networking. *See* Tennenhouse references provided with the applicants January 10, 2003 Information Disclosure Statement. These references and numerous articles, written by third parties, demonstrate that an active network is a name used as a noun for recognizing a very particular kind of network.

Owing to the fact that applicant does not provide a special definition of the term "active network", such term must be given its plain meaning, i.e. it must be read as it would be interpreted by those of ordinary skill in the art. In any case, the broadest reasonable interpretation must be consistent with the specification and must also be consistent with the interpretation that those skilled in the art would reach. See MPEP § 2111.01: "during examination the pending claims must be given their broadest reasonable interpretation consistent with the specification ... the broadest reasonable interpretation of the claims must also be consistent with the interpretation that those skilled in the art would reach ...." The interpretation of the term "active network" given by those of ordinary skill in the art is clear (see the aforementioned attached references): **an active network is a network including nodes capable of performing custom operations on the messages that pass through the nodes; does not require a central server or computing resource; are aware of the**

**contents of the messages transported and can participate in the processing and modification of the message while they travel through the network.**

### A.     The references do not teach an active network

Alleged by the examiner is that Lee discloses an active network. The networks are not active networks. Lee discloses only CAN, WAN, LAN, etc. type networks, having well known structures. Only if one considers the term "active" as a simple adjective to the word "network"; in this light, an "active network" is a network capable of doing any kind of action, does it follow that the networks of Lee are active networks. Following such an interpretation, however, every network is an active network, due to the fact that every network is at least able of establishing a connection. Thus it is impossible to claim a network which is not active with this meaning (a non-active network must be a network which does not do anything, and thus it is a completely unuseful network), this interpretation leads to the word "active" conferring no kind of limitation to the word "network".

What Lee does clearly disclose is the use of a control area network (CAN) network in a home or business environment. The applicants clearly distinguish existing, bus-based passive networks, such as CAN networks, from the claimed active networks. For example, at page 9, lines 1-10 of the specification, the applicants discuss legacy architectures including CAN networks that can be incorporated with and caused to communicate via interfaces with the disclosed active network, but not that the active network comprises such bus-based, passive network structures.

In fact, Lee teaches away from an active network structure. As noted above, the well understood meaning of the term "active network" is a network that does not require a central server or computing resource. However, at col. 2, lines 32-50 Lee describes each CAN system as including "a master controller," which can only be considered a central server or resource for each CAN system.

The network structures taught by Lee do not meet any of the criteria of an active network as set forth above. Therefore, the Lee networks are not active networks. It

follows that the combination of Behfar in view of Oliveira in further view of Lee cannot teach an active network or a vehicle incorporating an active network.

**B.      The combination of Behfar in view of Oliveira in further view of Lee does not render the claimed invention unpatentable**

Knowing that the references do not teach an active network, not only must that teaching be found elsewhere, but to establish a prima facie case of obviousness, and hence to find the claims 1-20 unpatentable under 35 U.S.C. § 103(a), all three basic criteria must be met. That is, there must also be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not be based upon applicant's disclosure. MPEP at § 2142.

As discussed above, the applicants contend that none of the cited references teach an active network. Hence it follows that any combination of the references, assuming arguendo motivation to make such a combination, does not teach an active network, a vehicle incorporating an active network or an active network with plural communication paths between the first device and the second device. Hence, the claims 1-20 are patentable over the combination.

Notwithstanding that the references fail to teach an active network, the applicants admit that the term active network describes a known network type. What is not taught or suggested in the art, and what the art does not establish, is a suggestion or motivation to use an active network in a vehicle. That comes only from the applicants' own specification, and to conclude there is motivation to combine or modify the references is inappropriate hindsight.

Careful analysis of the cited references reveals no suggestion or motivation to modify or replace a network used in a vehicle with an active network. There is no suggestion of any deficiency in the networks disclosed by Behfar or Oliveira that would be overcome by the use of an active network or any apparent benefit to be gained in the Behfar and/or Oliveira systems by using an active network. As admitted by the examiner, Lee is not

directed to vehicle applications. So, even if Lee had disclosed an active network there is no teaching or suggestion and hence no motivation to incorporate the disclosed active network architecture in a vehicle. Nor do the references cited by the applicants suggest use of an active network in a vehicle. It is only by the applicants' disclosure is one first taught to make the combination of a vehicle and an active network. The examiner has failed to provide any factual basis for this contention and has failed to point to any portion of the references that provides the motivation or suggestion for making the modification or combination to arrive at the claimed invention. MPEP § 2142.

Because there is no suggestion or motivation in the references themselves to combine a vehicle and an active network, it follows that claims 1-20 are patentable.

### C.    Conclusion

Clear from the foregoing discussion, the applicants have claimed a specific physical structure, namely an active network known to have particular characteristics, within a vehicle. This active network is not a bus architecture and is not a passive network or a combination of a passive network and a bus architecture or any other type of network structure than an active network structure. In light of the specification, the broadest reasonable interpretation of the term active network does not include bus structures and/or passive networks. For the claims to be unpatentable, i.e., not to meet the requirements of § 103(a), the prior art must teach or suggest each and every limitation contained in the claims as well as to provide the motivation or suggestion to combine the references, and particularly, in this case, must teach or suggest making a vehicle including an active network. Because the prior art fails to teach or suggest this structure or methods employing such structures, claims 1-16 do meet the requirements of 35 U.S.C. § 103(a) and are patentable.

If there are any additional fees or refunds required, the Commissioner is directed to charge or debit Deposit Account No. 13-2855.

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Respectfully submitted,

By _____
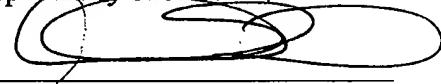
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